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7590 Mark S. Peloquin PELOQUIN, PLLC Suite 4100 800 Fifth Avenue Seattle, WA 98104-3100		03/12/2007	EXAMINER HUYNH, KHOA D	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/602,495

Applicant(s)

SHELTON, DARRELL JAMES

Examiner

Khoa D. Huynh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-53, 60-67, 75-79, 81-87, 89-96 and 98-113 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-53, 60-67, 75-79, 81-87, 89-96 and 98-113 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings, especially Figures 4, 6A, 6B and 7, are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface as recited in amended claims 45, 46, 60, 75, 84 and 92, and the angle between the first portion and the second portion is adjustable as recited in claim 101 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 45, 46, 60, 75, 84 and 92 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Each of claims 45, 46, 60, 75, 84 and 92 recites the limitation "the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface". Such claimed subject matter was not described in the specification (especially paragraphs [0038]-[0041]; [0043], lines 1-8; and [0044]-[0050] which provides the written descriptions for the elected species) in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Since the recited limitation is not supported by the original disclosure, it constitutes new matter.

4. Claim 101 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. Claim 1 recites the limitation "the angle between the first portion and the second portion is adjustable". Such claimed subject matter was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed,

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had possession of the claimed invention. Since the recited limitation is not supported by the original disclosure, it constitutes new matter.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 45-53, 60-67, 75-79, 81-87, 89-96, 98-100 and 101-109 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 45, 46, 60, 75, 84 and 92 recites the limitation "the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface". Such limitation renders the claim indefinite since it does not have detailed support in the instant specification. Since the claim does not clearly set forth the metes and bounds of the patent protection desired, the scope of the claim is unascertainable. The dependent claims, depending from each of the indefinite independent claims, are likewise indefinite.

Regarding claim 101, claim 101 recites "an angle between the first portion and the second portion is adjustable". Such recitations render the claim indefinite since it does not have detailed support in the instant specification. Since the claim does not clearly set forth the metes and bounds of the patent protection desired, the scope of the claim is unascertainable. Claims 102-109 depend on claim 101 and are likewise indefinite.

***Specification***

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface as recited in amended claims 45, 46, 60, 75, 84 and 92.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 45-53, 60-63, 65, 67, 75, 77-79, 92, 94-96, 101 and 103-106, as presently and best understood without proper supports from the instant disclosure, are rejected under 35 U.S.C. 102(b) as being anticipated by Kimura et al. (5461738),

The Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a support surface (Fig. 4) for supporting the human on its surface, wherein the support surface including a seat portion (about 7) and a back portion (about 1), and the seat portion is sloped to position the human's buttocks lower than the human's knee when the human is supported on the support surface. The seat portion includes an aperture (col. 5, line 7) in the support surface. The aperture is inherently capable of providing access for cleaning/drying and medical servicing (washing), from behind the human and

behind the back portion of the support surface, to a lower spinal region of the human's anatomy (Fig. 2 shows the cleaning/drying processing and washing via element 25, other than a human, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy). Regarding claims 45, 49 and 50, the method as claimed would be inherent during the normal use and operation of the Kimura et al. device.

The Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a support surface (Fig. 4) for supporting the human on its surface, wherein the support surface including a seat portion (about 7) and a back portion (about 1), and the seat portion is sloped to position the human's buttocks lower than the human's knee when the human is supported on the support surface. The seat portion includes an aperture (col. 5, line 7) in the support surface. The aperture is inherently capable of providing access for inspecting, cleaning/drying and medical servicing (washing), from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy (Fig. 2 shows the inspecting processing using a device (col. 5, lines 55-67) for capturing a view of the human through the aperture, and cleaning/drying processing and washing via element 25, other than a human, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy). Regarding claims 46-48 and 51-53, the method as claimed would be inherent during the normal use and operation of the Kimura et al. device.

The Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a support surface (Fig. 4) for supporting the human on its surface, wherein the support surface including a seat portion (about 7) and a back portion (about 1), and the seat portion is sloped to position the human's buttocks lower than the human's knee when the human is supported on the support surface. The seat portion includes an aperture (col. 5, line 7) in the support surface. The aperture is inherently capable of providing access to a sacral region of a human's anatomy from behind the support surface, and the aperture is also capable of relieving and eliminating pressure on the human's anatomy including the sacral region and an area between the left and right cheeks of the buttocks below the human's spine. Regarding claims 60-63, the method as claimed would be inherent during the normal use and operation of the Kimura et al. device.

Regarding claim 65, as schematically shown in Fig. 2, the slope portion is used to support the human's legs.

Regarding claim 67, as schematically shown in Fig. 2, a portion of the support surface that supports the human's legs is flexibly coupled (at 19) to a portion of the support surface that supports the human's back.

Regarding claim 75, the Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a support surface (Fig. 4) for supporting the human on its surface, wherein the support surface including a seat portion (about 7) and a back portion (about 1). and the seat portion is sloped



to position the human's buttocks lower than the human's knee when the human is supported on the support surface. The seat portion includes an aperture (col. 5, line 7) opening toward the back portion so that when the human is supported on the support surface, the human's anus is positioned over the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy.

Regarding claim 77, the Kimura et al. device also includes a device (col. 5, lines 55-67) for capturing a view of the human through the aperture.

Regarding claim 78, the Kimura et al. device also includes means for privacy (at 6) to limit a view of the human's anatomy.

Regarding claim 79, the Kimura et al. device also includes means for providing mobility (at 15, 5, 18) to the support surface.

Regarding claim 92, the Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a back portion (about 1), a seat portion (about 7) having an aperture (col. 5, line 7), and a frame (about 17a, 19, 23) coupling the seat portion with the back portion, so that when the human is supported on the support surface, the human's anus is proximate to the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy.

Regarding claim 94, the Kimura et al. device also includes a device (col. 5, lines 55-67) for capturing a view of the human through the aperture.

Regarding claim 95, the Kimura et al. device also includes means for privacy (at 6) to limit a view of the human's anatomy.

Regarding claim 96, the Kimura et al. device also includes means for providing mobility (at 15, 5, 18) to the support surface.

Regarding claim 101 (as best understood), the Kimura et al. reference discloses a device (Fig. 2) for supporting a human. The device includes a first portion (at 7) having an aperture (col. 5, line 7), and a second portion (about 1) flexibly coupled (at 19) with the first portion, wherein the aperture extends toward the second portion. An angle between the first portion and the second portion is adjustable (from Fig. 1 to Fig. 2), so that when the human is supported on the support surface, the human's anus is proximate to the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy.

Regarding claim 103, the Kimura et al. device also includes a device (col. 5, lines 55-67) for capturing a view of the human through the aperture.

Regarding claim 104, the Kimura et al. device also includes means for privacy (at 6) to limit a view of the human's anatomy.

Regarding claim 105, the Kimura et al. device also includes means for providing mobility (at 15, 5, 18) to the support surface.

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Regarding claim 106, as schematically shown in Figure 2, the seat portion is sloped to position the human's buttocks lower than the human's knee when the human is supported on the support surface.

10. Claims 45-49, 60-63, 65-67, 75, 76, 81-83, 84, 89-91, 92, 93, 98-100, 101, 102 and 106-109, as presently and best understood without proper supports from the instant specification, are rejected under 35 U.S.C. 102(b) as being anticipated by Banks (6073277).

The Banks reference discloses a device (10) for supporting a human. The device includes a support surface for supporting the human on its surface, wherein the support surface including a seat portion (at 11) and a back portion (13). As schematically shown in the front view of Figure 1, the seat portion is appeared to slope to position the human's buttocks lower than the human's knees when the human is supported on the support surface portion. The seat portion (at 11) includes an aperture (col. 2, lines 39-40). The aperture is inherently capable of providing access from behind the support surface and the aperture is capable of relieving and eliminating pressure on the human's anatomy including the sacral region and an area between the left and right cheeks of the buttocks below the human's spine. Regarding claims 45-49, the method as claimed would be inherent during the normal use and operation of the Banks device.

The Banks reference discloses a device (at 10) for supporting a human. The device includes a support surface for supporting the human on its surface,

wherein the support surface including a seat portion (about 11) and a back portion (about 13), and the seat portion is sloped to position the human's buttocks lower than the human's knee when the human is supported on the support surface (Fig. 1). The seat portion includes an aperture (col. 2, lines 39-40) in the support surface. The aperture is inherently capable of providing access to a sacral region of a human's anatomy from behind the support surface, and the aperture is also capable of relieving and eliminating pressure on the human's anatomy including the sacral region and an area between the left and right cheeks of the buttocks below the human's spine. Regarding claims 60-63, the method as claimed would be inherent during the normal use and operation of the Kimura et al. device.

Regarding claim 65, as schematically shown in Fig. 1, the slope portion is used to support the human's legs.

Regarding claim 66, the support surface further includes armrests (14), wherein the armrests are sloped such that the human's hand on the arms could be at different elevation than the human's elbow on the arm.

Regarding claim 67, as schematically shown in Fig. 1, a portion of the support surface that supports the human's legs is flexibly coupled (the portion that connects the seat and back is made of plastic and plastic inherently includes some degrees of flexibility) to a portion of the support surface that supports the human's back.

Regarding claims 75 and 76, the Banks reference discloses a device (at 10) for supporting a human. The device includes a support surface for supporting the human on its surface, wherein the support surface including a seat portion (at 11) and a back portion (at 13). As schematically shown in Figure 1, the seat portion (at 11) is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface. The seat portion includes an aperture (col. 2, lines 36-40) opening toward the back portion so that when the human is supported on the support surface, the human's anus is positioned over the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. The back portion also includes an aperture that merges with the aperture in the seat portion (col. 2, lines 36-40).

Regarding claims 81-83, the support surface further includes armrests (14), wherein the armrests are sloped and coupled with the support surface.

Regarding claim 84, the Banks reference discloses a device (10) for supporting a human. The device includes a seat portion (at 11) having an aperture (col. 2, lines 36-40), and a back portion (13) having a second aperture (col. 2, lines 36-40). The seat portion and the back portion form a non-planar support surface to support a human. The first aperture and the second aperture form a composite aperture in the support surface, so that the human's anus is proximate to the composite aperture. The composite aperture is inherently

capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. As schematically shown in Figure 1, the seat portion (at 11) is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface.

Regarding claims 89-91, the support surface further includes armrests (14), wherein the armrests are sloped and coupled with the support surface.

Regarding claims 92 and 93, the Banks reference discloses a device (at 10) for supporting a human. The device includes a back portion (at 13), a seat portion (at 11) having an aperture (col. 2, lines 36-40), and a frame (at 12) coupling the seat portion with the back portion, so that when the human is supported on the support surface, the human's anus is proximate to the aperture. The composite aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. As schematically shown in Figure 1, the seat portion (at 11) is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface. The back portion also includes an aperture that merges with the aperture in the seat portion (col. 2, lines 36-40).

Regarding claims 98-100, the support surface further includes armrests (14), wherein the armrests are sloped and coupled with the support surface.

Regarding claims 101, 102 and 106, the Banks reference discloses a device (Fig. 1) for supporting a human. The device includes a first portion (at 11) having an aperture (col. 2, lines 36-40), and a second portion (13) flexibly coupled (the portion that connects the seat and back is made of plastic and plastic inherently includes some degrees of flexibility) with the first portion, wherein the angle between the first portion and the second portion is adjustable (during the assembly of the device), so that when the human is supported on the support surface, the human's anus is proximate to the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. The back portion also includes an aperture that merges with the aperture in the seat portion (col. 2, lines 36-40). As schematically shown in Figure 1, the seat portion (at 11) is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface.

Regarding claims 107-109, the support surface further includes armrests (14), wherein the armrests are sloped and coupled with the support surface.

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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12. Claims 60-64, 67, 84-87, 89, 90, 92-96, 98, 99, 101-105, 107, 108 and 110-113, as presently and best understood without proper supports from the instant disclosure, are rejected under 35 U.S.C. 103(a) as being unpatentable over Banks, Jr. et al. (5682626).

The Banks, Jr. et al. reference discloses a device (10) for supporting a human. The device includes a support surface for supporting the human on its surface, wherein the support surface including a seat portion (at 20) and a back portion (constitute by elements 15 and the two vertical posts connected to element 15). The seat portion includes an aperture (constitute by the opening on element 20). The aperture is inherently capable of providing access from behind the support surface and the aperture is capable of relieving and eliminating pressure on the human's anatomy including the sacral region and an area between the left and right cheeks of the buttocks below the human's spine. The Banks, Jr. et al. reference DIFFERS in that it does not specifically disclose that the seat portion is sloped as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Bank, Jr. et al. device by employing a sloped seat portion. Such modification would be considered a mere choice of a flat seat or a preferred inclined seat on the basis of its suitability for the intended use especially since it is known in the seating art that inclined seat provides comfort by urging a user toward the back rest portion to more firmly hold the user's back against the back



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rest portion. Regarding claim 60-63, the method as claimed would be inherent during the normal use and operation of the modified Banks, Jr. et al. reference.

Regarding claims 64 and 67, as schematically shown in Figure 1, a privacy panel (at W) to obstruct a view of the human supported on the support surface, wherein the privacy panel is releasably coupled with the support surface via a fastener (at 42). The seat portion for supporting the human's legs is flexibly coupled to the back portion. The method as claimed would be inherent during the normal use and operation of the Banks, Jr. et al. reference.

Regarding claim 84, the Banks, Jr. et al. reference discloses a device (10) for supporting a human. The device includes a seat portion (at 20) having an aperture (constituted by the opening on element 20), and a back portion (constituted by elements 15 and the two vertical posts connected to element 15) having a second aperture (about 22). The seat portion and the back portion form a non-planar support surface to support a human. The first aperture and the second aperture form a composite aperture in the support surface, so that the human's anus is proximate to the composite aperture. The composite aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. The Banks, Jr. et al. reference DIFFERS in that it does not specifically disclose that the seat portion is sloped as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Bank, Jr. et al. device by employing a sloped seat portion.

Such modification would be considered a mere choice of a flat seat or a preferred inclined seat on the basis of its suitability for the intended use especially since it is known in the seating art that inclined seat provides comfort by urging a user toward the back rest portion to more firmly hold the user's back against the back rest portion.

Regarding claim 85, the means for viewing is inherently a person giving aid to the human standing on the back portion to view a portion of the human visible through the aperture.

Regarding claim 86, the tub (Fig. 1) with its vertically extending wall portion inherently constitutes means for privacy to limit a view of the human, i.e. a human child.

Regarding claim 87, it is inherent that someone other than the human aid could move the device from one place to the other, and the someone constitutes means for providing mobility to the support surface.

Claims 89 and 90, the device further includes armrests (17) coupled with the support surface for supporting the human's arms.

Regarding claim 92, the Banks, Jr. et al. reference discloses a device (10) for supporting a human. The device includes a back portion (constituted by elements 15 and the two vertical posts connected to element 15), a seat portion (at 20) having an aperture (constituted by the opening on element 20), and a frame (at 30) coupling the seat portion with the back portion, so that when the human is supported on the support surface, the human's anus is proximate to the

aperture. The composite aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. The Banks, Jr. et al. reference DIFFERS in that it does not specifically disclose that the seat portion is sloped as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Bank, Jr. et al. device by employing a sloped seat portion. Such modification would be considered a mere choice of a flat seat or a preferred inclined seat on the basis of its suitability for the intended use especially since it is known in the seating art that inclined seat provides comfort by urging a user toward the back rest portion to more firmly hold the user's back against the back rest portion.

Regarding claim 93, as schematically shown Fig. 1, the back portion has an aperture (about 22) that merges with the aperture in the seat portion.

Regarding claim 94, the means for viewing is inherently an aperture (about 22) on the back portion to view a portion of the human visible through the aperture.

Regarding claim 95, the tub (Fig. 1) with its vertically extending wall portion inherently constitutes means for privacy to limit a view of the human, i.e. a human child.

Regarding claim 96, it is inherent that someone other than the human could move the device from one place to the other, and the someone constitute means for providing mobility to the support surface.

Regarding claims 98 and 99, the device further includes armrests (17) coupled with the support surface for supporting the human's arms.

Regarding claim 101, the Banks, Jr. et al. reference discloses a device (10) for supporting a human. The device includes a first portion (at 20) having an aperture (constitute by the opening on element 20), and a second portion (constitute by elements 15 and the two vertical posts connected to element 15) flexibly coupled with the first portion, wherein the angle between the first portion and the second portion is adjustable (during the assembly of the device), so that when the human is supported on the support surface, the human's anus is proximate to the aperture. The aperture is inherently capable of providing access, from behind the human and behind the back portion of the support surface, to a lower spinal region of the human's anatomy. The Banks, Jr. et al. reference DIFFERS in that it does not specifically disclose that the seat portion is sloped as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Bank, Jr. et al. device by employing a sloped seat portion. Such modification would be considered a mere choice of a flat seat or a preferred inclined seat on the basis of its suitability for the intended use especially since it is known in the seating art that inclined seat provides comfort by urging a user toward the back rest portion to more firmly hold the user's back against the back rest portion.

Regarding claim 102, as schematically shown Fig. 1, the back portion has an aperture (about 22) that merges with the aperture in the seat portion.

Regarding claim 103, the means for viewing is inherently an aperture (about 22) on the back portion to view a portion of the human visible through the aperture.

Regarding claim 104, the tub (Fig. 1) with it vertically extending wall portion inherently constitutes means for privacy to limit a view of the human, i.e. a human child.

Regarding claim 105, it is inherent that someone other than the human could move the device for one place to the other, and the someone constitute means for providing mobility to the support surface.

Regarding claims 107 and 108, the device further includes armrests (17) coupled with the support surface for supporting the human's arms.

Regarding claims 110 and 112, the Banks, Jr. et al. reference discloses a device (10) for supporting a human. The device includes a back portion (constitute by elements 15 and the two vertical posts connected to element 15) having an aperture (about 22), a seat portion (at 20) having an aperture (constitute by the opening on element 20) opening toward and merging with the aperture in the back portion to form a composite aperture wherein the human's anus is to be positioned proximate to the composite aperture, and a frame (at 30) coupling the seat portion with the back portion. The means for viewing is inherently an aperture (about 22) on the back portion to view a portion of the human visible through the aperture, and the tub (Fig. 1) with it vertically extending wall portion inherently constitutes means for privacy to limit a view of

the human, i.e. a human child. The Banks, Jr. et al. reference DIFFERS in that it does not specifically disclose that the seat portion is sloped as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Bank, Jr. et al. device by employing a sloped seat portion. Such modification would be considered a mere choice of a flat seat or a preferred inclined seat on the basis of its suitability for the intended use especially since it is known in the seating art that inclined seat provides comfort by urging a user toward the back rest portion to more firmly hold the user's back against the back rest portion.

Regarding claim 111, it is inherent that someone other than the human could move the device from one place to the other, and the someone constitute means for providing mobility to the support surface.

Regarding claim 113, even though the Banks, Jr. et al. reference does not specifically disclose that each of the armrests configured with the front end higher than the back end as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Banks, Jr. et al. device by configuring the armrests with the front end higher than the back end to allow the human to comfortably rest the arms while leaning back against the back portion.

***Response to Amendment***

13. Applicant's amendment, filed on 01/09/07, to the pending claims is insufficient to distinguish the claimed invention from the cited prior art or overcome the rejections as discussed above.

***Response to Arguments***

14. Applicant's arguments filed on 01/09/07 with respect to the pending claims have been fully considered. However, such arguments are deemed not persuasive.

**Drawings**

Applicant asserts that Figures 1, 8A and 8B each show the adjustable angle. See remarks section, page 10. The examiner disagrees with applicant. While Figures 1, 8A and 8B each may show the adjustable angle; however, such Figures are not pertinent since they are directed to the non-elected embodiment (see applicant's reply filed 10/24/05). Applicant also points to the specification, page 17, lines 22-23, page 18, lines 1-2, and page 19, lines 1-6. However, a full review of those pages does not yield any description corresponding to elected Figures 4, 6A, 6B and 7 which discusses the adjustable angle between the portion as claimed. Accordingly, the written specification does not describe the adjustable angle and the drawings, especially elected Figures 4, 6A, 6B and 7, also does not illustrate the adjustable angle. Thus, the drawings objection is proper.

**Claim rejection under 35 U.S.C 112**

Applicant asserts that the specification, page 12, lines 11-17, paragraph 29 and page 22, lines 15-23 and page 23, lines 1-13 paragraphs 51-52 of the Detailed

Description provide detailed, explicit support for the adjustable angle. Nevertheless, a full review of those pages does not yield any detailed, explicit support which discusses the adjustable angle between the portions as claimed. Thus, the claim rejection under 35 U.S.C 112 is proper.

Claim rejections under 35 U.S.C 102

Applicant also asserts that the Banks, Jr. et al. reference does not teach the amended limitation "the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface". Nevertheless, such assertions are now moot in view of the new grounds of rejection as discussed supra.

Applicant also asserts that the Banks reference does not teach the amended limitation "the seat portion is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface". The examiner disagrees. As stated in the above rejection, the Banks reference does teach a device having a support surface for supporting the human on its surface, wherein the support surface including a seat portion and a back portion, wherein the seat portion, as schematically shown in Figure 1, is sloped to position the human's buttocks lower than the human's knees when the human is supported on the support surface. Thus, the Banks reference does teach applicant's invention as claimed.

Furthermore, applicant's arguments with respect to the amended claims have been considered but are moot in view of new grounds of rejections and objections as discussed supra.



***Conclusion***

15. Applicant's amendment necessitated additional new grounds of rejections and objections presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

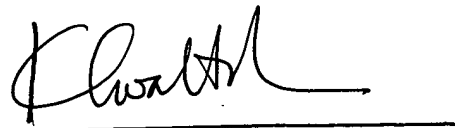
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'K. Huynh', is written over a horizontal line.

Khoa D. Huynh  
Primary Examiner  
Art Unit 3751

HK  
03/07/2007